

**January 15, 2009**

**DECISION AND ORDER  
OF THE DEPARTMENT OF ENERGY**

**Appeal**

Name of Petitioner: Ernest D. Steelman

Date of Filing: January 7, 2009

Case Number: TFA-0287

This Decision concerns Ernest D. Steelman's Appeal from a determination that the Department of Energy's (DOE) Oak Ridge Office (ORO) issued to him on December 17, 2008. In that determination, the ORO responded to Mr. Steelman's request under the Privacy Act (PA), 5 U.S.C. § 552a, as the DOE implemented in 10 C.F.R. Part 1008. This Appeal, if granted, would require the ORO to perform an additional search and either release newly discovered records or issue a new determination justifying its withholding.

**I. Background**

Mr. Steelman worked at the Oak Ridge Site for Rust Engineering, from approximately 1976 to 1986. Appeal Letter. He filed a Privacy Act request with the ORO for his payroll and personnel records. Determination Letter. The ORO disclosed a copy of his personnel clearance master card and stated that it could not locate any other records. *Id.*

Mr. Steelman then filed the present Appeal with the Office of Hearings and Appeals (OHA), challenging the adequacy of the ORO's search. *See* Appeal Letter. He repeated his request for his payroll and personnel records and stated that his personnel clearance master card listed his birth date incorrectly. *Id.*

**II. Analysis**

In responding to a request for information filed under the Freedom of Information Act (FOIA),<sup>1</sup> courts have established that an agency must "conduct[] a search reasonably calculated to uncover all relevant documents. . . ." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). "[T]he standard of reasonableness which we apply to agency search

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<sup>1</sup> Unlike the Freedom of Information Act (FOIA), which requires an agency to search all of its records, the PA requires only that the agency search its systems of records. However, we require a search for relevant records under the Privacy Act to be conducted with the same rigor that we require for searches under the FOIA.

procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” *Miller v. Dep’t of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542.

We have not hesitated to remand a case where the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (Dec. 13, 1995) (Case No. VFA-0098) (remanding where there was “a reasonable possibility” that responsive documents existed at an unsearched location).<sup>2</sup>

We contacted the ORO to gain additional information to evaluate its search. The ORO stated that it searched for Mr. Steelman’s records at the Oak Ridge National Laboratory, the East TN Tech Center (K-25), and the DOE Records Holding Area.<sup>3</sup> E-mail from Elizabeth M. Dillon, Authorizing Official, ORO, to David M. Petrush, Attorney-Examiner, OHA, Jan. 8, 2009. Those facilities searched their paper files and electronic databases, using Mr. Steelman’s name and social security number.<sup>4</sup> The ORO stated that it searched the files most likely to contain Mr. Steelman’s employment records. *Id.* For these reasons, we find that the ORO conducted a search that was reasonably calculated to uncover all relevant records, and was therefore adequate. Therefore, we will deny Mr. Steelman’s Appeal.

It Is Therefore Ordered That:

(1) The Appeal that Ernest D. Steelman filed on January 7, 2009, OHA Case No. TFA-0287, is denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552a(g)(1). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos  
Director  
Office of Hearings and Appeals

Date: January 15, 2009

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<sup>2</sup> OHA decisions issued after November 19, 1996, may be accessed at <http://www.oha.doe.gov/foia1.asp>.

<sup>3</sup> The ORO stated that the National Nuclear Security Administration’s (NNSA) Y-12 facility maintains records for Rust Engineering, and that on October 7, 2008, it forwarded Mr. Steelman’s request to the NNSA. E-mail from Elizabeth M. Dillon, Authorizing Official, ORO, to David M. Petrush, Attorney-Examiner, OHA, Jan. 8, 2009. The NNSA will respond to Mr. Steelman separately; the ORO’s Determination Letter and this Appeal do not address the NNSA’s search.

<sup>4</sup> Mr. Steelman noted that his personnel clearance master card showed an incorrect birth date. This error did not affect the ORO’s search because the ORO did not search using his birth date. Rather, it searched using his correct name and social security number.